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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,816	07/02/2003	Fred O. Hartmann	G351.12-0001	3853
43662	7590	08/12/2005	EXAMINER	
DFAULT LAW FIRM 10 SOUTH FIFTH STREET LUMBER EXCHANGE BUILDING, SUITE 920 MINNEAPOLIS, MN 55402			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/612,816	<b>Applicant(s)</b> HARTMANN ET AL.	
	<b>Examiner</b> Gregory W. Adams	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*[Handwritten signature]*

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 20-22 & 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Smijian (US 4,887,836).

With respect to claims 1-8, Smijian discloses a platform 20 connected to a handle 78 with a stowed position and operative position, a handle 78 rigidly connected to a first side of a platform 20 while locked and substantially vertical while in the locked position, a channel 20 for a stowed handle, a channel member 28 attached to a platform underside 20, support members 26 extending from a platform 20, a hinge 76 at a channel member proximal end 20 and including first and second hinge members 76 and a handle comprising 78 an elongated portion, and a cylindrical member 76, locking plate 68A-B connected to a platform 20 and wherein a handle further comprises a tongue member 42B positioned upon a elongated portion a tongue member 42B.

With respect to claims 20-22 & 24, Smijian discloses a platform 20 having a plurality of sides for supporting a load, ground engageable wheels 24, vertically lockable and otherwise positionable handle 78 connected to a platform 20, a locking plate 68A-B, tongue member 42B, a channel member 28 for receiving the

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handle 78 while in the stowed position, wherein a channel member 28 positioned along a platform underside 20.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-12 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smijian (US 4,887,836) in view of Cramer (US 2,659,100) (previously cited)

With respect to claims 9, 11-12 & 25, Smijian discloses ground engaging wheels but does not disclose a rectangular box guard member. Referring to FIGS. 1-4 Cramer '100 discloses a guard member 3 of rectangular box configuration 7 housing a wheel. Cramer '100 teaches that a rectangular configuration provides a housed wheel 26 to which is easily added providing a supporting for wheel bearings. Col. 1, Ins. 1-17. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the guard members of Smijian in a rectangular box configuration, as per the teachings of Cramer, such that the wheels are supported within a housing which supports the wheel bearings.

With respect to claim 10, Smijian discloses a handle 78 is accessible proximate a platform second side 20 in any position.

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5. Claims 13 & 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smijian (US 4,887,836) in view of Sisson (US 3,658,383) (previously cited). Smijian discloses a hand-truck but does not disclose a foot-brake. Sisson '383 discloses a hand-truck 1 comprising a handle 39, and a foot-brake 14, 15 connected to a platform 18. Sisson '383 adds a foot-brake to prevent shifting of hand-truck 1 during unloading. Col. 1, Ins. 65-73. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hand-truck of Smijian to include a foot-brake, as per the teachings of Sisson, to prevent shifting during unloading.

6. Claims 14 & 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smijian (US 4,887,836) in view of Ketterer (US 3,236,539) (previously cited).

With respect to claim 14, Smijian discloses a platform 20, channel member 28 attached to an underside of a platform 20, a locking plate 68A-B connected to a platform 20 proximate to a channel member 28, hinge 76 connected to a platform 20, a handle 78 disposable within a channel member, handlebars 78, tongue 42B and whereupon extracting a handle 78 from a channel member 28 and when a handle is locked to a locking plate is between a tongue member and handle. Smijian discloses a hand-truck having a handle and locking plate but does not disclose a stop.

Ketterer discloses a platform 4 connected to a handle 12 and a stop 15. Ketterer discloses stopping an extending handle from a retracted position which both prevents a retracted handle from inadvertently extending as in shipping and

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to prevent overextending a handle when in use. Col. 1, Ins. 11-42. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hand-truck of Smijian to include a stop, as per the teachings of Ketterer, to prevent handle movement during shipping and/or use.

With respect to claims 17-19, Smijian discloses handlebars 78 are accessible to maneuver a hand-truck when a handle 78 is disposed within a channel member 28, support members 26 extending from a platform 20 parallel to a channel member 28, wherein portions of a support members and the channel member equidistantly extend from a platform, wherein a hand-truck is accessible to be lifted by a forklift from any side.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smijian (US 4,887,836) in view of Ketterer (US 3,236,539) and Sisson (US 3,658,383). Smijian discloses a hand-truck but does not disclose a foot brake. Sisson '383 discloses a hand-truck 1 comprising a handle 39, and a foot brake 14, 15 connected to a platform 18. Sisson '383 adds a foot brake to prevent shifting of hand-truck 1 during unloading. Col. 1, Ins. 65-73. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hand-truck of Smijian to include a foot brake, as per the teachings of Sisson, to prevent shifting during unloading.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smijian (US 4,887,836) in view of Ketterer (US 3,236,539) and Cramer (US 2,659,100). Smijian discloses ground engaging wheels but does not disclose a

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rectangular box guard member. Referring to FIGS. 1-4 Cramer '100 discloses a guard member 3 of rectangular box configuration 7 housing a wheel. Cramer '100 teaches that a rectangular configuration provides a housed wheel 26 to which is easily added providing a supporting for wheel bearings. Col. 1, Ins. 1-17. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the guard members of Smijian in a rectangular box configuration, as per the teachings of Cramer, such that the wheels are supported within a housing which supports the wheel bearings.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smijian (US 4,887,836). Smijian does not disclose stowing in a vertical position. Smijian teaches folding down walls such that a hand-truck can be stowed in car trunks or closets for space conservation. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to stand Smijian's hand-truck in a vertical orientation such that it can conserve space in small areas.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



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